Patent
Attorney's Docket No. 028723-063

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	
	)	
Rolf J. MEHLHORN	)	Group Art Unit: 1502
	)	
Application No.: 08/474,382	)	Examiner: G. Kishore
	)	
Filed: June 7, 1995	)	
	)	
For: METHOD FOR LOADING LIPID LIKE VESICLES WITH DRUGS OR OTHER CHEMICALS	)	

RESPONSE TO COMMUNICATION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In the Communication mailed August 26, 1996, the Patent Office indicated that the response filed on June 7, 1996, was non-responsive to the Official Action mailed December 13, 1995. In particular, it was pointed out that the newly presented claims were drawn to a different method as opposed to the originally presented claims.

Applicant notes that the present application is one which was filed with an Amendment cancelling all but the first claim. Applicant had never intended to prosecute Claim 1 but rather, intended to file a Preliminary Amendment adding claims directed to the method now claimed.

It is noted that the Examiner had been contacted by a representative of the Applicant prior to the issuance of the Action and was advised that a

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Preliminary Amendment was forthcoming. This was confirmed in a Letter filed in the Patent Office on November 30, 1995. The Examiner nonetheless issued an Action on December 13, 1995. The applicant's representative contacted the Examiner after issuance of the Official Action at which point the Examiner apologized for the error and advised the applicant that he would try to enter the new claims. Furthermore, an interview was conducted between the undersigned and the Examiner on April 9, 1996 at which point the claims to the method now being claimed were presented. At no time did the Examiner indicate prior to the present Communication that such Amendment adding claims directed to the method as now claimed would not be considered.

In view of the above, it is respectfully requested that the Amendment of June 7, 1996, be considered and examined. It is only through an inadvertent issuance of the Action after a representation that no such action would issue that the current situation even arose. Furthermore, submission of such claims was specifically discussed with the Examiner and no indication was given that they would be unacceptable.

It is further noted that the added claims, like Claim 1 originally examined, are directed to methods. In fact, applicants even acknowledged that the present method claims are somewhat broader than the method claims which are the subject of the interference in the related application. For this reason, applicants indicated that the claims of the present application should be suspended pending the outcome of the interference. It is noted in similar fashion

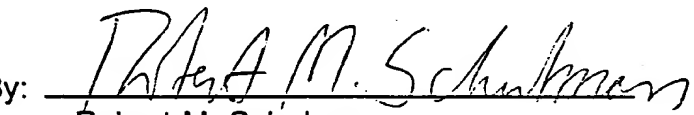
that the present method claims are broader than original Claim 1 which was examined by the Patent Office. It therefore makes no sense that the Patent Office takes the position that these new claims are directed to a different invention. Applicants are entitled to either broaden or narrow claims to a particular invention during prosecution.

In view of the foregoing, it is urged that the newly added Claims 27-45 should be examined as filed in the Amendment of June 7, 1996. It was only in view of an oversight of the Patent Office that an Action even issued before these new claims were presented. Furthermore, the claims added, like the claim originally examined, are directed to methods which, if anything, are broader than the originally claimed method. For this reason, the position of the Patent Office that applicant is now claiming a separate invention is believed to be in error.

Such action is respectfully requested.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, LLP

By: 

Robert M. Schulman
Registration No. 31,196

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

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